



PUBLIC DISCLOSURE COMMISSION

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TO: Members, Public Disclosure Commission

FROM: Doug Ellis
Director of Public Outreach

DATE: September 25, 2002

SUBJECT: Reconsideration of WAC 390-17-100

Staff is requesting the Commission reconsider the draft amended language to WAC 390-17-100 which was approved at the August 27, 2002 Commission meeting.

The Legislature, under Engrossed Senate Bill 6713, removed the requirement to annually renew a request for payroll deduction of wages or salaries for contributions to political committees or for use as political contributions. The legislation also required annual employee notification of the non-discriminatory provision of RCW 42.17.680(2) and a notification about the right of an employee to revoke the authorization for payroll deductions. The legislative changes necessitate amending WAC 390-17-100.

Input from stakeholders on possible changes to this rule centered on developing language that would permit a single withholding authorization form to meet both the state and federal requirements.

Federal Election Commission (FEC) requirements for payroll deduction withholding authorization forms state:

(4) Any persons soliciting an employee or member for a contribution to a separate segregated fund must inform the employee or member at the time of such solicitation of his or her right to refuse to contribute without any reprisal.

The FEC also mentions language that informs the employee "the corporation or labor organization will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute."

Washington requirements for the withholding authorization form states in part:

The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section.

RCW 42.17.680(2) states:

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

At the August meeting you approved amended draft language to WAC 390-17-100 that retained the exact language of RCW 42.17.680(2) as part of the payroll deduction withholding authorization forms.

Staff believes that use of the exact language or alternative language describing the provisions of statute (RCW 42.17.680(2)) would satisfy the intent of the law.

Prior to legislative amendments to RCW 42.17.680 it made perfect sense to require the exact non-discriminatory language found in subsection 2 of the statute since the annual withholding authorization form was the only document that an employee received which outlined employee rights. With the elimination of annual authorization of the withholding form the importance of reciting the exact language on the “one time” form is minimized.

The new requirement, to provide employees with an annual notification of the right to revoke the payroll deduction authorization and the non-discriminatory provisions of RCW 42.17.680(2), would be an appropriate vehicle on which to mandate the exact statutory language. The two documents, the one time payroll deduction withholding authorization form and the annual notification with the exact language found in the statute, would fully cover the intent of the law.

Providing an option of using the exact statutory language in RCW 42.17.680(2) or a statement that more generically describes the protections of .680(2) would provide the Washington state labor community increased flexibility in the printing and distribution of withholding authorization forms while at the same time satisfying the intent of RCW 42.17.680.

Action by the Commission. At this point, staff is requesting the Commission to reconsider its action regarding WAC 390-17-100 and approve the attached staff amendment as proposed language for amending WAC 390-17-100.

Enclosures